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HUMAN RIGHTS QUESTIONS:

HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 11 November 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia addressed to the Secretary-General

I have the honour to transmit, enclosed herewith, the information prepared by the Government of the Federal Republic of Yugoslavia concerning General Assembly resolution 48/122 and Commission on Human Rights resolution 1994/46 entitled "Human rights and terrorism" (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the General Assembly under agenda items 100 (b) and (c).

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

ANNEX

1. Yugoslavia is a signatory to the 1937 Convention for the Prevention and Punishment of Terrorism and complies with the United Nations resolutions on international terrorism.

2. Article 123 of the Criminal Code of the Federal Republic of Yugoslavia entitled "Terrorism" determines the basic form of this criminal act and provides legal protection against terrorism.

3. The action in the commission of such a criminal act is described as an undertaking of a generally dangerous action or a commission of an act of violence.

4. A generally dangerous action is an action which is minatory to an unspecified person and unspecified property. Such an action may be directed against a specified person and specified property, but its effects cannot be fully foreseen so that by itself it constitutes a general danger not only to the person or property against whom/which it is directed but also to other persons or property. Arson and the planting of explosives are listed in the Code as typical examples of such generally dangerous actions, but these actions may include other actions of similar effect, such as the use of poison or poisonous gas, ionized radiation, motor power, electric or other energy, etc.

5. An act of violence as an action of the commission of the criminal act of terrorism is to be understood as the use and threat of use of force which may result in this criminal act; the creation of the feeling of insecurity among citizens. Although so provided by the Code, the creation of the feeling of insecurity among citizens need not be the only consequence of the commission of terrorism.

6. In addition to the said article, article 132 of the Criminal Code of the Federal Republic of Yugoslavia provides for the punishment of 1 to 10 years in prison of the persons sending or smuggling terrorists to the territory of the Federal Republic of Yugoslavia.

7. Article 136 of the said Code defines as a criminal act, inter alia, association for the purpose of committing the criminal act of terrorism. Under the article, those hatching a plot or setting up a gang, a group or another association for the purpose of committing this criminal act will be punished with 1 to 10 years in prison. Also, those becoming members of the said associations will be punished with 6 months to 5 years in prison. For criminal and political reasons, the said article provides also for a lesser punishment and the acquittal of the perpetrator of the criminal act of terrorism who, by uncovering an association or in some other way, prevents the commission of the criminal act of terrorism and for a member of an association who uncovers the association before he or she commits the criminal act of terrorism either as its member or for the association.

8. Article 137 of the said Criminal Code provides for the punishment of 1 to 10 years in prison of a person who assists the perpetrator of the criminal act

of terrorism by hiding him or her, providing him or her shelter, food, material, financial or other means, by enabling the perpetrator to maintain contact, or by undertaking an action directed at impeding the detection or capture of the perpetrator, or by assisting him or her in any other way. However, in the context of assisting the perpetrator in the commission of the criminal act of terrorism, the Criminal Code of the Federal Republic of Yugoslavia does not provide for the punishment of the perpetrator's spouse, a person permanently living with him or her in an extramarital union, or a next of kin in the direct line, brother or sister, as well as his or her ward or guardian and their spouses and persons with whom they permanent live in an extramarital union.

9. The preparation of the criminal act of terrorism is punishable with 1 to 10 years in prison under article 138 of the said Code.

10. Article 139 of the same Code defines, inter alia, the gravest form of the criminal act of terrorism; the perpetrator of the criminal act of terrorism will be punished with not less than 10 years in prison if the commission of the criminal act has resulted in the death of one or more persons; if it puts in jeopardy the life of people; if it is followed by brutal violence or vast destruction; if it has led to threats to the security, the economy or the military forces of the country; or if, during the commission of the criminal act of terrorism, the perpetrator kills one or more persons with premeditation. The perpetrator who commits the criminal act of terrorism during a state of war or in the event of an imminent threat of war will be punished with the same punishment of not less than 10 years in prison.

11. The United Nations has condemned terrorism on many occasions and General Assembly resolution 48/122 of 20 December 1993 condemns all acts, methods and practices of terrorism wherever, whenever and by whomsoever committed. Under this resolution and under the resolution adopted by the United Nations Commission on Human Rights at its fiftieth session, terrorism implies, inter alia, activities aimed at the destruction of human rights and fundamental freedoms, whereas the State is obligated to protect these rights and freedoms.

12. Bearing this in mind, the State is obligated to ensure for all its citizens, for each and every human being, regardless of the danger he or she may pose, minimum respect of his or her human rights, in which way it demonstrates respect for his or her human dignity and personal integrity. This is the limit to go to in granting human rights and fundamental freedoms to terrorists. Terrorists may be deprived of all other human rights, or those rights may be limited, not only because of the danger posed by terrorism as a phenomenon, but also because of its frequent recourse to and excessive level of brutality, harshness and inhuman and unethical behaviour, etc.

13. Deprivation or limitation of human rights in the context of terrorism has been the subject of both international instruments and national legislation.

14. Speaking of the Federal Republic of Yugoslavia, one should bear in mind the overall political situation in Yugoslavia, which is used as a smokescreen by various terrorist groups to disguise their terrorism as a struggle for human rights and fundamental freedoms and, in particular, for national minority rights.

15. The 1992 Constitution of the Federal Republic of Yugoslavia, in its entire chapter 2 (arts. 19-68), deals with the freedoms, rights and duties of citizens, guaranteeing them to all citizens irrespective of their national origin. The Federal Republic of Yugoslavia is a State with members of national minorities and various ethnic groups accounting for almost one third of its overall population. The federal State and its constituent republics, Serbia and Montenegro, are defined by their constitutions as states based on the equality of all their citizens, which means that, irrespective of whether they belong to the Serb or Montenegrin people or to national minorities or ethnic groups, their citizens enjoy equal human rights and fundamental freedoms. Moreover, members of national minorities are granted, both individually and collectively, special additional rights (such as the use of their own language and alphabet, education and public communication in their own language, educational and cultural organizations, associations, etc.).

16. All these rights and those to which members of national minorities are entitled under the Constitution of the Federal Republic of Yugoslavia, such as the right to maintain, develop and express their ethnic, linguistic and other specificities, are often alleged to be insufficient by members of some minorities, who resort to various terrorist acts, most often in the territory of the Autonomous Province of Kosovo and Metohija and the Raska area, in an effort to achieve, under this pretext, their political goals based on separatism.

17. Invoking alleged human rights violations, but in fact set on forcibly destroying the territorial integrity of Yugoslavia, numerous secessionist and terrorist organizations are active in Serbia and Montenegro among the members of Albanian and Muslim national minorities. It has been reliably proved that the Democratic Alliance of Kosovo (DAK), headed by Dr. Ibrahim Rugova, is the main terrorist organization of ethnic Albanian secessionists, and that the Party of Democratic Action (PDA) is the main terrorist organization of Muslim secessionists. It has also been ascertained that both these organizations have manifold ties with Turkey and Albania. In point of fact, Albania and Turkey sponsor international terrorism against the Federal Republic of Yugoslavia since, in addition to various forms of direct and indirect support, they provide shelter and military training to Albanian and Muslim terrorists from the Federal Republic of Yugoslavia in their territories. Upon completion of training for terrorism and sabotage, these persons are sent back to the Federal Republic of Yugoslavia through various channels and with specific tasks: (a) selection and recruitment of new candidates for military training in Albania and Turkey; (b) collection of intelligence data on the Federal Republic of Yugoslavia and the Army of Yugoslavia for intelligence services in Albania and Turkey and on targets of terrorist attacks; (c) terrorist attacks against the organs and institutions of the Federal Republic of Yugoslavia, citizens of Serb and Montenegrin nationality and ethnic Albanians and Muslims loyal to the Federal Republic of Yugoslavia; (d) organization and training of terrorist groups and units for terrorist acts against the Federal Republic of Yugoslavia; and (e) activities aimed at provoking armed rebellion for the purpose of seceding Kosovo and Metohija, Raska and Polimlje from the Federal Republic of Yugoslavia.

18. By these activities, which contain all the elements of international terrorism, Albania and Turkey are in breach of the Universal Declaration of Human Rights and the Convention for the Prevention and Punishment of Terrorism.

19. Here are only some examples:

(a) Albania allowed DAK to open its office on the premises of the National Museum in Tirana, with the rank of "Embassy of the Republic of Kosova" (the inscription on the door reads "Representative Office of the Government of the Republic of Kosova");

(b) In this office, Ali Aliu, widely known terrorist and a member of DAK, is in charge of the military aspects of DAK terrorist organizations. He receives Albanian terrorists from the Federal Republic of Yugoslavia and sends them to the Labinot camp for military/terrorist training. He also keeps a record of all ethnic Albanians from the Federal Republic of Yugoslavia who have been given military training in Albania;

(c) Albania has enlisted professionals from its intelligence service, Lt.-Col. Mond Bejari, Major Lefter Nik, Captain Pren Llika, Sgt. Marash Xhoni and others, to organize military/terrorist training for Albanian terrorists from the Federal Republic of Yugoslavia. From 26 June 1992 to 26 January 1993 alone, 110 Albanian terrorists from the Federal Republic of Yugoslavia were trained under their supervision in the Labinot camp near Elbasan;

(d) Some 2,000 Albanian terrorists from the Federal Republic of Yugoslavia were trained at Labinot and in the camps near Tirana, Pishkopea and Shkoder;

(e) During the six-month training in these camps, Albanian terrorists were visited several times by the leaders of DAK (Zumber Berisha, Zeherijah Cana and Remzi Kolgeci) exhorting the trainees to do their very best to acquire all the necessary knowledge, so that, upon return to the Federal Republic of Yugoslavia, they could be ready to carry out all acts of insurgency requested of them;

(f) Upon completion of the training, each terrorist leaves his address with the camp organizers and instructors, undertaking the obligation to answer a possible call-up in the event of an armed rebellion in Kosovo and Metohija. The "Embassy of the Republic of Kosova" in Tirana must be notified of any change of address;

(g) Turkey allowed PDA to open its "Information Agency of the Sandjak Villayet" on Midhad Pasha Street in Ankara which masterminds Muslim terrorist organizations in the Federal Republic of Yugoslavia;

(h) Sulejman Ugljanin, PDA leader, and Mustafa Karamayoglu, Turkish intelligence officer, and their associates, headquartered in the "Agency" building, receive Muslim terrorists from the Federal Republic of Yugoslavia sent by PDA, detailing them either for studies or for military/terrorist training. The students are indoctrinated with Islamic fundamentalism and inculcated with hatred for the Serb people, whereas the trainees undergo a comprehensive military training which makes them first-rate international terrorists;

(i) By allowing them to enter and stay in Turkey, allegedly for "education" and "work", Turkey enabled some 2,000 Muslim extremists from the Federal Republic of Yugoslavia (Raska and Polimlje areas) to undergo military/terrorist training in 1992/1993;

(j) Turkey participated in the training of future international terrorists most directly by making available its military training camps at Urla and Akisar near Izmir and by enlisting for that purpose a number of its officers;

(k) During their training, lasting approximately three months, Turkey enabled a group of Muslim intellectuals, headed by Sefket Krcic and involved in various ways in the preparation of Muslim secessionists in the Federal Republic of Yugoslavia for armed rebellion, to visit the trainees in the camps;

(l) Upon completion of the training, the terrorists were allowed to go to the former Bosnia and Herzegovina and fight against the Serb people, fanning up in that way the civil war in that former Yugoslav republic, whereas some terrorists were sent back to the Federal Republic of Yugoslavia with specific assignments.

20. The above data on sponsoring of international terrorism by Albania and Turkey against the Federal Republic of Yugoslavia were obtained through the depositions of a number of persons from Albanian and Muslim terrorist organizations in the Federal Republic of Yugoslavia and were corroborated from several sources. Identification data on over 100 persons from these groups are also available.

21. In 1993, a large number of ethnic Albanians were tried in the courts of the Autonomous Province of Kosovo and Metohija for terrorist activity. In the District Court of Pec, criminal proceedings were conducted against 23 persons for the criminal act of threat to the territorial integrity of the Federal Republic of Yugoslavia, in which 22 persons were pronounced guilty and the charges against 1 person were dismissed. In the District Court of Prizren, criminal proceedings were conducted against 18 persons for the criminal act of threat to the territorial integrity of the Federal Republic of Yugoslavia and the criminal act of association for hostile activity. Of these 18 persons, 17 were pronounced guilty and the charges against 1 person were dismissed. In the District Court of Gnjilane, criminal proceedings were conducted against 5 persons accused of being members of an illegal hostile organization aimed at seceding the part of the territory of the Federal Republic of Yugoslavia populated by ethnic Albanians from the rest of the country. The case has not yet been completed as the court decision has been appealed. Criminal proceedings were conducted in the District Court of Pristina against 18 persons accused of the criminal act of association for hostile activities and the criminal act of threat to the territorial integrity of the Federal Republic of Yugoslavia. Out of these 18 persons, 17 were sentenced to 1 to 10 years in prison, while in one case the charges were dismissed.

22. All these proceedings were conducted according to the law and their legality was not contested nor were complaints made as to the treatment accorded the accused as members of minority groups.

23. Besides, the so-called Independent Trade Union operates in the territory of the Autonomous Province of Kosovo and Metohija, which is in fact a kind of party militia involved in racketeering and the intimidation and punishment of Serbs and disloyal Albanians. About 50 persons in each municipality are under arms; they have not yet been apprehended since they have gone underground.

24. The existence of terrorist activities in Raska was revealed by the evidence obtained after the apprehension and arraignment of 25 Muslims from that region last year, charged by the District Public Prosecutor of Novi Pazar on 18 October 1993 with the commission of the criminal act of threat to the territorial integrity of the Federal Republic of Yugoslavia. Out of these 25 persons, 17 were accused of the criminal act of illicit procurement, stockpiling, carrying, manufacturing, exchange or trade in arms and explosives. According to the indictment, the accused persons established in the period between May 1991 and May 1993 military and police formations and units with headquarters in "Sandzak" and larger urban centres. Terrorist groups were set up and trained in Yugoslavia and abroad, in addition to the so-called "black troikas", for silent liquidation of individuals, sabotage activities, etc.

25. Upon arrest, maps and plans of combat activities in the territory of Raska were seized, as well as various lists and documents on the preparation of terrorist activities, such as the decision on the creation of the corridor between the former Bosnia and Herzegovina and the so-called Sandzak, connecting Foca, Gorazde, Cajnice, Rudo, Visegrad, Pljevlja, Priboj, etc.

26. Far from being a political process or a process initiated to try members of a particular national minority or political organization, the trial in question is a textbook case of the legal and legitimate suppression of terrorist activity.

27. All the facts relating to this and other matters notwithstanding, the Federal Republic of Yugoslavia and its judicial authorities consider themselves obligated to treat all persons, including those on trial and possibly convicted for terrorist activity, in accordance with the law and to respect their human rights.

28. The Federal Republic of Yugoslavia supports and has signed international legal instruments relating to the prevention and punishment of terrorism and welcomes the efforts of the international community to suppress international terrorism, which is a threat to international peace and stability and constitutes a serious violation of human rights and fundamental freedoms. The Federal Republic of Yugoslavia has incorporated in its legal system the legal mechanisms for protection against terrorism and the suppression of terrorist actions in its territory.

29. However, Yugoslavia has been the target of terrorist threats and actions, aided and abetted by some foreign countries, Albania and Turkey in particular.

30. The Government of the Federal Republic of Yugoslavia welcomes and fully supports the efforts by the United Nations Secretary-General aimed at suppressing terrorism and its destructive consequences for the realization of human rights and fundamental freedoms.